

GUIDANCE GOVERNING DISCLOSURE OF INTELLIGENCE SOURCES AND METHODS

The April 1971 DCI "Guidance Governing Disclosure of Classified Intelligence" for the intelligence community on the issue of leaks has been reviewed. They appear to have been conceived and promulgated in frustration and appear today to be more platitudinous than practical. Exhortations for someone else to "do something" and without authority behind the assignment of responsibility, the guides satisfied the needs of that time. Now they should be evaluated in light of today's environment, supplemented with better definitions of what is involved, fortified with procedures to be implemented and rounded off with a call for accountability.

The intelligence community still does not have a law which does ~~not~~ require proof of the intent to injure the US and it is still necessary to declassify the material involved in order to prosecute. Recommendations of the Rockefeller Commission propose that the Security Committee determine when a leak should be referred to the Attorney General for investigation. This does not relieve departments and agencies from determining and commenting on whether the release is an unauthorized disclosure ^{and from} evaluating its seriousness and taking internal corrective actions. The Chairman, Security Committee believes that the position of the Committee related to any incident of suspected unauthorized disclosure should be referred to the DCI for determination whether or not to request the Attorney General to conduct an investigation. ^{Not a legislative} Pending legislation or adoption by the Executive Branch of recommendations of the various investigative ~~actions~~ ^{actions} now underway, the Security Committee should not delay revision of guidance on unauthorized disclosures.

The following is proposed for consideration of and adoption by the Security Committee in this regard.

What is needed first is a definition of matters that should be considered as within the purview of the legislative charge to the DCI to protect intelligence sources and methods. There is a difference between a disclosure of foreign intelligence sources and methods and a disclosure of unattributed finished intelligence.

A leak of sources and methods is a proper concern for the DCI and the USIB. We view a "disclosure of intelligence sources or methods" as a revelation of a human source or a technical procedure used in clandestine collection of foreign intelligence, the existence of which is subject to nullification by the target through direct action. It does not include either photographic or signal satellites since to take these out of operation, although with the capabilities of the Soviet Union, would be directly contrary to existing international understandings and practices on the freedom of use of space and have consequences of a national magnitude.

We view an "unauthorized disclosure of intelligence information" as another category entirely, one not within the DCI's particularly charged area of responsibility to protect foreign intelligence sources and methods. In this category we would place the disclosure or release of finished intelligence which would include the substance of NIEs, SNIEs, internal studies of a speculative nature on the significance of bits of raw intelligence and everything in between that does not reveal directly the source or method of collection. Gross statements on organization and budget figures would also fall in this exclusion category of things not directly covered by the legislative charge to the DCI.

Repeated arguments over the years have projected concern that the inevitable results of such disclosures could be a sharp curtailment of the effectiveness if not the disappearance of some of our most important intelligence sources. This is a hard argument to counter. Its acceptance is almost intuitive. But it is in this very area that the test of evidence must be applied and the results evaluated.

~~If we are to effectively husband effort toward protection of our ability to provide the intelligence support required by the policy level of the Government?~~

An effort some two years ago by the community failed to identify a cause and effect relationship between disclosures and countermeasures. Historical evidence was not surfaced that serious consequences followed on the defection of Martin and Mitchell, the loss of the Pueblo, the 1971-1972 revelations by Jack Anderson or

the appearance of a massive volume of intelligence sourced speculatively but accurately to reconnaissance satellites.

This ~~is~~ study was not pursued to completion and we believe that its challenge should be presented to the USIB for reconsideration. ~~part of this proposal~~. Such an exercise might help to better define where we are to direct our protective efforts.

It may also have the additional value of surfacing evidence that not all disclosures of substantive intelligence per force reveals the source. This may encourage second thoughts before committing limited resources to investigations. We are of the opinion that many cries about leaks are stimulated because an individual with knowledge of the true source projects that source into the revelation and cannot find ground to admit that someone without his knowledge could be in doubt as to the true source.

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In a further attempt to circumscribe proper efforts to protect intelligence sources and methods, an appreciation should be made of the dual effect of time and scope of dissemination of finished intelligence and of the use of intelligence information to foster public support of policies.

In relation to the former, the success, but more usually the failure, of previous ~~in-house~~ efforts by the members of the community to identify sources of unauthorized disclosures has been directly related to both the passage of time from release date and the numbers of persons authorized to receive the material. The longer the time frame, and the greater the number of recipients, the less the chances become of finding the source of the disclosure.

In relation to the latter, there are frequent releases of finished intelligence materials which inherently reveal a use to foster public support. The releasing element all too frequently fails to comply with standing requirements to seek due authorization but does attempt to disguise the true origin. In many incidents the intelligence component or elements responsible for protection of intelligence in the releasing department or agency are not aware of the intent or action until revealed in the public media. In those cases where the responsible intelligence element is aware of the release, the interests of other concerned members of the community may not be fully taken into account. These circumstances have resulted in ~~a~~ calls for investigations by ~~a~~ members of the intelligence community and the expenditure of considerable effort and manpower only to discover its release was "authorized."

We ask that these factors be recognized and that due appreciation be accorded to the effect they may have on the success of any investigations mounted to determine the source of a leak.

Accordingly, we would propose that no member of the USIB request other members to conduct investigation of unauthorized disclosure of intelligence sources and methods or finished intelligence:

- more than three weeks old and distributed within the intelligence community in the Washington area with a No Foreign Dissem caveat.

- more than two weeks old and distributed within the intelligence community in the United States with a No Foreign Dissem caveat.

- more than one week old and distributed overseas to US intelligence establishments with a No Foreign Dissem caveat.

- distributed to foreign government.

- briefed to the Senate or House.

- which inherently indicates use to foster public support of weapons programs.

We encourage the establishment of a leak data base as a service of common concern to the community. Inputs would be on the nomination by any member of USIB with approval of the USIB and its agreement that this is an unauthorized disclosure of sensitive sources and methods of foreign intelligence.

We encourage the establishment of a reporting procedure as a regular if intermittent agenda of the USIB meetings where members will mutually inform of the authorization of use of intelligence in public disclosures.

We encourage a 50 percent reduction in the dissemination of all compartmented finished intelligence for a period of six months.

We encourage a similar reduction of collateral finished intelligence for a like period of time.

We propose issuance at this time of a ^{an undamp'd} DCI letter of concern to all elements of the intelligence community acknowledging the flood of apparent public disclosures and reminding everyone that they are to abide by existing rules and prohibitions against release of intelligence sources and methods.

We encourage each department and agency of the intelligence community to review classified holdings of their contractors and retrieve material not immediately essential to current contractor work.

We encourage USIB Principals to review again their dissemination lists and apply the need-to-know rule, ruthlessly striking from current lists those elements with justification based on "nice-to-know" or "for-background" purposes.

We encourage USIB Principals to reconsider the scope of sensitive intelligence materials now almost routinely included in daily briefings and preclude use of compartmented materials in briefings of non-intelligence personnel below the level of heads of their departments and agencies and the principal staffs.

We encourage the reindoctrination and continuing education in security practices and procedures.

We encourage the aggressive review of materials now handled in compartmented channels with a view toward removing as much information as possible from these channels to facilitate an appreciation of the fact that ~~they~~ ^{these channels} are meant to protect truly sensitive materials.

We encourage the use of TOP SECRET controls where these are warranted to protect extremely sensitive materials and discourage the practice of using lesser classification solely because of the ease of doing so.